

## APPENDIX

Department of Justice  
Paternity and Child Support

## CSTARS Compliance Checklist

The following are the criteria for supporting the child support enforcement system (CSTARS) at the Department of Justice Paternity and Child Support Division.

- The vendor must be knowledgeable in Software AG products which consist of Adabas, Natural, Natural Security, Predict and Entire Net-work.
- The vendor must be knowledgeable in Microsoft Windows 2003 server, Microsoft Windows XP SP3 operating systems, and RoboHelp 2000 in regards to the application for the child support application.
- The vendor must be knowledgeable to support the CSTARS application and forms database located on Microsoft Windows servers.
- The vendor is required to perform Risk Management by providing
  1. Risk Identification
  2. Risk Quantification
  3. Risk Response Development
  4. Risk Response Control
- The vendor is required to perform Life Cycle Control over the development of the system enhancements to ensure they are implemented in a timely and efficient manner.
- The vendor is required to establish a parallel network environment for use in development, testing, and presentation of all system modifications and enhancements. The environment should replicate the agencies production environment (hardware and software) as exactly as possible.
- The vendor is expected to provide system enhancements and modifications based on the agencies task order process. The vendor will develop a task order for any requested system modification and the agencies MIS Manager and/or Project Manager will review it prior to starting of the work.
- The vendor is required to provide weekly activity summaries on the status of the tasks and activities worked during the previous week and activities planned during the coming week.
- The vendor is required to provide management reports on a regular and ad hoc basis as requested by PCSD.
- The vendor is required to provide training to the agency staff for program applications and system use as required by PCSD.
- The vendor is required to provide user documentation that may include user manuals, code tables, quick reference guides, online help screens and other required instructional materials. Such material shall be produced or made available to users either on-line or in hard copy as requested by PCSD.

- The vendor is required to respond to problem reports submitted by the agency.
- The vendor is required to utilize a standard Problem Investigation Report model approved by the agency.
- The vendor is required to perform a Root Cause Analysis for all submitted Problem Reports.
- The vendor is required to provide a current status of all outstanding Problem Reports and Root Cause Analyses in the weekly status report and shall maintain a complete inventory of Problem Reports over the life of the project.
- The vendor is required to support the CSTARS application including support for any and all software, hardware, and network elements used in the operation of the CSTARS application.
- The vendor is responsible for providing support for the agencies local staff during all ACF audits, including the annual OCSE-157 audit, VI Government Annual Single Audit, agencies Self-Assessment, IRS Safeguard Review and any other system audits performed by Territory or Federal Agencies.
- The vendor must update the following documents annually and prior to implementing each enhancement or modification and provide them to the agency on CD or DVD.
  1. CSTARS Administrator's Manual
  2. CSTARS Online Help (migrate to the CSTARS application)
  3. CSTARS Detailed Design Document
  4. CSTARS Logical Data Model
- The vendor is responsible for the upgrade of the Mailroom processing application which is a custom application for batch mail printing. The application is an interface with AIX and Windows to generate batch printing of letters that are prepared using CSTARS. Due to insufficient documentation detailing the technical and functional architecture of the application and the application being developed for a Windows NT/Windows Server 2003 environment, the vendor will propose a solution using Java or similar technology that is platform independent.
- The vendor is required to propose suggestions and guidance on how to move the agency from its legacy system to a modernized system utilizing modern technology. This modernization effort should include the following to achieve this goal.
  1. Web based portals that provide drop down menus where available
  2. Upgrade of the Windows and UNIX versions to the most current versions supported by the vendor
  3. Upgrade of the Collection (Financials) process that defines a clear path for tracking payments from the time they are received to disbursed and improved approach to performing corrections with payments.



Draft

PROFESSIONAL SERVICES CONTRACT

**THIS AGREEMENT** made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016 in the Territory of the Virgin Islands, by and between the GOVERNMENT of the Virgin Islands DEPARTMENT OF PROPERTY AND PROCUREMENT, on behalf of the DEPARTMENT OF JUSTICE (the "Department"), 48B-50C Kronprindsens Gade, Second Floor, St. Thomas, U.S. Virgin Islands 00802, (hereinafter referred to as "**GOVERNMENT**") and \_\_\_\_\_ of \_\_\_\_\_, a registered corporation in the state of \_\_\_\_\_, with principal offices in \_\_\_\_\_, herein represented by its Chief Executive Officer, \_\_\_\_\_, hereinafter referred to as "**CONTRACTOR**".

Both parties witness to being duly authorized to execute this agreement and will attest accordingly when and where necessary.

**WITNESSETH**

**Whereas, the GOVERNMENT** desires to procure the services of a contractor to provide for incremental upgrades, maintenance and support for the operation of Paternity & Child Support Division's (PCSD's) Child Support Territorial Automated Reporting System ("CSTARS") application.

**WHEREAS CSTARS** has been operational since 2001 and is the automated case management system that supports the Title IV-D Child Support Program in the Virgin Islands.

**WHEREAS, CSTARS** meets the requirements for Federal Certification under the Family Support Act of 1988, the Personal Responsibility and Work Opportunity Act of 1996, the Balanced Budget Act of 1997, the Taxpayer Relief Act of 1997, and the Deficit Reduction Act of 2005.

**WHEREAS, THE GOVERNMENT** requires incremental upgrades and continued Support, Maintenance and Enhancement Services of its Child Support Territorial Automated Reporting System (CSTARS)

**WHEREAS, the GOVERNMENT** requested proposals from at least three vendors consistent with Virgin Islands Procurement Laws;

**WHEREAS, CONTRACTOR** submitted a proposal to the Government in response to its request; and

**WHEREAS, CONTRACTOR** was selected as a result of the proposal evaluation process and the Government is satisfied that the Contractor's response sufficiently meets the Government's needs;

CONTRACT No. \_\_\_\_\_ Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

**WHEREAS, THE PARTIES** agree to comply with all federal requirements and requirements of the Internal Revenue Code (IRC) that relates to Federal tax returns or return information, accordingly the requirements are attached herewith as Appendix E and incorporated herein and made a part of this agreement.

**NOW THEREFORE**, in consideration of their mutual promises and covenants, the GOVERNMENT and CONTRACTOR agree to the following:

### TERMS AND CONDITIONS

#### 1. SERVICES

The CONTRACTOR will provide the services described in Appendix A & C of the RFP attached hereto and incorporated herein and described and referred to as Statement of Work and CSTARS Compliance Checklist.

#### 2. TERM

This Contract shall commence on \_\_\_\_\_ and end on \_\_\_\_\_.

This Contract shall be subject to annual renewal, for up to four successive one year terms. Renewal shall be at the sole option of the GOVERNMENT, ALL terms and conditions of this Contract shall remain the same throughout subsequent renewal periods, provided, however, that the parties may increase the total aggregate dollar cost of Task Orders, as hereinafter defined, to provide for additional enhancements and modifications to CSTARS.

#### 3. COMPENSATION

The GOVERNMENT, in consideration of the performance of the services described in Appendix A & C, agree to pay the CONTRACTOR a sum not to exceed \$ \_\_\_\_\_ for the total cost of services provided by the Contractor, which, includes the sum of \$ \_\_\_\_\_ allocated for incremental upgrades.

a. \_\_\_\_\_ Dollars shall be paid annually at \$ \_\_\_\_\_ per month for the term of this contract for professional services for maintenance and support services commencing in the 12 month period from \_\_\_\_\_ to \_\_\_\_\_. The total compensation for these services shall not exceed \$ \_\_\_\_\_.

b. An amount not to exceed \$ \_\_\_\_\_ for professional services relating to enhancements and modifications to CSTARS for the 12 month period from \_\_\_\_\_ to \_\_\_\_\_.

The CONTRACTOR agrees to submit timely invoices as soon as services are rendered. The CONTRACTOR specifically agrees that it will submit invoices within 15 days of performance of services.

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

Undisputed invoices will be due and payable by the Government within thirty (30) days of invoice. If the Government fails to pay the Contractor within forty-five (45) days from the receipt of an undisputed invoice, Contractor may charge penalties allowable under applicable law.

### 4. TASK ORDERS

In addition to the maintenance and support services described in this Contract, CONTRACTOR shall, as described in Addendum I, provide enhancements and modifications to CSTARS. Said enhancement and modification services shall, as described in Addendum I, be performed pursuant to individual task orders (the "Task Orders") entered into by the GOVERNMENT and CONTRACTOR and shall be billed as set out in Addendum II.

The Contractor and Government will work together to establish time frames and criteria for the acceptance process of deliverables identified in the Contract. Such acceptance process will establish specific time frames for Government's approval of deliverables, as well as the criteria for approval, and contain provisions for schedule adjustment or deemed approval should Government fail to meet the specified time frames.

All Task Orders shall be written and governed by the terms of this Contract and shall set out the following information:

- a. scope of services
- b. specific term for the performance of the scope of services.
- c. Not-to-Exceed compensation for performance of services.

If additional information is needed to approve a Task Order, the GOVERNMENT may request such confirming information and documentation regarding the Task Order from the CONTRACTOR as the GOVERNMENT deems appropriate. In the event of a conflict between the provisions of a Task Order and this Contract, the provisions of this Contract shall prevail unless the parties specifically identify and agree upon a change to this Contract in the Task Order. All Task Orders shall be subject to the appropriation and availability of funds.

### 5. PRE-CONTRACT COSTS

Any cost incurred by the CONTRACTOR in order to prepare and/or present a proposal(s) for consideration of the award of this Contract, or to develop, negotiate, or implement this Contract prior to the actual execution date of this Contract must be contained within, and shall not be in excess of, nor in addition to the total amount of compensation specified in Section 3 of this Contract.

### 6. TRAVEL OR TRANSPORTATION EXPENSES

Any travel or transportation costs of the CONTRACTOR, its agents or employees and/or

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

any of its subcontractors or its agents providing services under this Contract, and/or any of the equipment, supplies or materials which are part of this project, and/or are to be used to perform the services of the CONTRACTOR, shall be calculated and compensated within, and not in addition to the amount specified in Section 3 above.

### 7. ENTIRE CONTRACT

This Contract supersedes any and all other Contracts, either oral or written, between the parties with respect to retaining CONTRACTOR by the GOVERNMENT for this project and contains all of the covenants and agreements between the parties with respect to this Contract. No representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and no other agreement, statement, or promise not contained in this Contract shall be valid or binding. Any modification of this Contract will be effective only through a duly executed Amendment signed by the parties to this Contract.

### 8. ULTRA VIRES

In accordance with the laws and regulations regarding the contracting of services, both parties acknowledge they will not provide any type of service under this Contract until this Contract is duly signed by the authorized representative and the conditions set forth in Paragraph 10 are met.

### 9. ORDER OF PRECEDENCE

In the event of a contradiction between the provisions of the documents comprising this Contract, such contradiction shall be resolved by giving precedence in the following order:

- A. Provisions of this Contract (as it may be amended);
- B. Provisions of the Task Orders hereunder.

### 10. COMMON PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

### 11. PERFORMANCE GUIDELINES

#### 11.1 General performance guidelines

The CONTRACTOR will follow the following performance guidelines during the support and maintenance process:

- A. All work will be conducted in a professional and orderly manner;

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

- B. The **CONTRACTOR**'s maintenance and support staff must be trained on the CSTARS application. Their training must be up-to-date to include all prior system enhancements and automated interfaces.
- C. The **CONTRACTOR** shall provide a description of the job specifications for all key personnel and shall notify the **GOVERNMENT** of any and all modifications.
- D. The following Contractor key positions are considered essential to this Contract:
- Project Manager
  - Lead Developer or Team Lead(ers)

E. A change in key personnel after award may only be made with prior written approval by the **GOVERNMENT**. Approval will not be unreasonably withheld. **CONTRACTOR** will be able to replace key personnel for reasons beyond the **CONTRACTOR**'s reasonable control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. **CONTRACTOR** must submit for the **GOVERNMENT**'s approval, a replacement with the educational and relevant experience qualifications that are similar to initial key personnel.

F. Resources may not be shared among maintenance and enhancement teams. If maintenance resources are used for enhancements, Contractor will backfill those resources as appropriate. The qualifications of key personnel are considered material elements of the performance required of this Contract and may not be replaced without prior written approval of the Government.

### 11.2 Approvals not construed as waivers

The **GOVERNMENT**'s review, approval, acceptance of, and payment of fees for services required under this Contract, shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of **CONTRACTOR**'s failure to perform. **CONTRACTOR** is and will remain liable to the **GOVERNMENT** for all direct costs and expenses actually incurred by the **GOVERNMENT** as a result of **CONTRACTOR**'s gross negligence or willful misconduct in performance of any of the services performed under this Contract

## 12. OPERABILITY GUARANTEE

In accordance with Addendum 1, Scope of Services, the **GOVERNMENT** and **CONTRACTOR** agree that maintenance and support of the CSTARS Application is a primary objective of this Contract. Therefore, the **GOVERNMENT** and **CONTRACTOR** agree that the **CONTRACTOR** will, on a timely basis, provide all information, data, forms, technical modification, documentation, consultation, and training needed to support the **GOVERNMENT**

Contract No. 10-18005-11

Initials: JS

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

in operating the CSTARS application as identified in Addendum 1.

### 13. WARRANTY

#### 13.1 Nature and extent of warranty

CONTRACTOR shall use reasonable efforts to promptly correct, at no additional cost to GOVERNMENT, any error arising solely out of the work performed by CONTRACTOR which causes material deviations in the software or inoperability of the hardware relating to CSTARS. Should such errors cause problems in CSTARS data, CONTRACTOR shall, to the extent reasonably possible, reconstruct any files affected by the error identified and reported to CONTRACTOR within THIRTY (30) days after performance of the services giving rise to the error. The GOVERNMENT acknowledges its obligation to maintain adequate backup copies of all data files.

#### 13.2 Voidance of warranty

The warranty given by CONTRACTOR hereunder shall become void and unenforceable against CONTRACTOR if the GOVERNMENT fails to maintain CSTARS, allows a party other than CONTRACTOR to make changes or modifications to CSTARS, or causes modifications to the application and supporting software covered in this Contract after being advised by CONTRACTOR that such modifications may cause errors or material deviations in the operational capabilities of the hardware or software, but only with respect to the component or components affected by such modification.

#### 13.3 Limitation of Warranty

Except for the warranties expressly set forth in this Contract, CONTRACTOR makes no other warranties, and expressly disclaims all other warranties, whether written, oral or implied, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR ANY OTHER WARRANTY WITH RESPECT TO THE QUALITY, ACCURACY OR FREEDOM FROM ERROR OF THE OPERATION, USE AND/OR FUNCTION OF THE SERVICES, SOFTWARE OR PRODUCTS.

### 14. BREACH OF DUTIES BY CONTRACTOR - REMEDIES

#### 14.1 GENERAL

CONTRACTOR acknowledges that any failure or unreasonable delay on its part in the delivery of services and/or materials to the GOVERNMENT may cause irreparable injury to the GOVERNMENT, not adequately compensable by redress of damages. CONTRACTOR accordingly agrees that the GOVERNMENT may, in such event, seek and obtain injunctive relief, as well as monetary damages limited to the amounts paid under this Contract. Notwithstanding the foregoing, the GOVERNMENT acknowledges that CONTRACTOR shall

Contract No. 4211805.1

Initials: 2

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

retain the unfettered right to raise any and all defenses that it deems appropriate in the circumstances.

### 14.2 Right to Withhold

If work under this Contract is not performed in accordance with the terms hereof, GOVERNMENT will have the right to withhold out of any payment due to CONTRACTOR, such sums as GOVERNMENT may reasonably deem ample to protect it against loss or to assure payment of claims arising therefrom, and at its option, GOVERNMENT may secure itself to satisfy such claims. Prior to the GOVERNMENT exercising its right to withhold payment, CONTRACTOR must be notified in writing and given THIRTY (30) days to cure performance and provide documentation thereof. The GOVERNMENT will not exercise any right to withhold without providing CONTRACTOR an opportunity to cure.

GOVERNMENT will immediately notify the CONTRACTOR in writing in the event that it elects to exercise its right to withhold. No such withholding or application shall be made by GOVERNMENT if and while CONTRACTOR gives satisfactory assurance to GOVERNMENT that such claims will be paid by CONTRACTOR or its insurance retainer, if applicable, in the event that such contest is not successful.

15. INTENTIONALLY LEFT BLANK

16. INTENTIONALLY LEFT BLANK

### 17. STATUS AS INDEPENDENT CONTRACTOR

CONTRACTOR and its agents and employees are independent contractors performing professional services for the GOVERNMENT and are not agents, representatives, or employees of the GOVERNMENT. Because of this, the GOVERNMENT is under no obligation to make withholdings in relation to CONTRACTOR employees. CONTRACTOR and its agents and employees shall not accrue vacation or sick leave, retirement, insurance, bonding, use of GOVERNMENT'S vehicles, or any other benefits afforded to employees of the GOVERNMENT as a result of this Contract, except as derived from their employment by CONTRACTOR and/or its subcontractors and agents.

### 18. GOVERNMENT NOT LIABLE

- A. Nothing in this Contract shall be construed to impose any liability upon GOVERNMENT to persons, firms, associations, or corporations engaged by CONTRACTOR as servants, agents, or independent contractors, or in any other capacity whatsoever, or make GOVERNMENT liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of CONTRACTOR or whatsoever nature, including but not limited to unemployment insurance and social security taxes for CONTRACTOR, his servants, agents, or independent contractors.

Contract No. PC-115-00011

Initials: jc

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

- B. The **GOVERNMENT** assumes no liability for any accident or injury to **CONTRACTOR**, its employees, agents, or their dependents, or damage to personal property while in route to or from **GOVERNMENT's** facilities or during any travel associated with or mandated by the terms of this Contract.

### 19. CONTRACTOR'S LIABILITY

#### 19.1 General

**CONTRACTOR** shall be liable for all third party claims related to and arising out of the **CONTRACTOR'S** gross negligence or willful misconduct in the performance of this Contract, including those arising out of its direct contracts or relationships with third parties, except those acts of negligence attributable to the **GOVERNMENT**. This liability also includes all claims arising out of any subcontracts and the direct damages relating thereto.

#### 19.2 Responsibility for payroll taxes and withholdings

**CONTRACTOR** shall faithfully and timely observe all legal requirements regarding payroll withholdings and payment of payroll taxes such as, but not limited to, income tax withholdings, social security taxes and unemployment taxes, and shall maintain at its expense Workmen's Accident Compensation insurance as required by law. **CONTRACTOR** shall certify the Virgin Islands Department of Justice, Division of Paternity and Child Support, (the "Department") of these payments. The provisions of this paragraph shall apply to each subcontractor as well. There shall be no withholding of taxes by the **GOVERNMENT** other than those mandated by law.

#### 19.3 Hold harmless for patent or copyright infringement

**CONTRACTOR** assumes responsibility for any claim brought against the **GOVERNMENT** based on the infringement of any patent or copyright or the use of any software, materials, or information developed and delivered in the execution of this Contract, and in any such suit or claim, satisfy any penalty assessed against the **GOVERNMENT** for such violation. The **GOVERNMENT** shall provide **CONTRACTOR** with a copy of any such claim served upon or noticed to the **GOVERNMENT** within not more than THREE (3) workdays of its receipt, and **CONTRACTOR** shall have the right and opportunity to defend and clear itself from any such allegation at its sole discretion, and the **GOVERNMENT** shall provide full cooperation in respect thereto. In the event that any order of a court of competent jurisdiction shall prevent the **GOVERNMENT** from using all or any part of such software, materials or information, **CONTRACTOR**, at **CONTRACTOR'S** sole option, shall either (a) obtain for the **GOVERNMENT**, at **CONTRACTOR'S** expense, the right for the **GOVERNMENT** to continue using all of such software, materials or information, including the alleged infringing portion, or (b) replace such infringing portion of such software, materials or information to make it non-infringing; or (c) refund to the **GOVERNMENT** all amounts paid for such service, materials or information directly causing the infringement.

Contract No. PC1800311

Initials: re

RFP No. \_\_\_\_\_

# PROFESSIONAL SERVICES CONTRACT

Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the Government for, or to pay any costs, damages or attorneys' fees related to, any infringement claim based upon: (i) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the Government; or (ii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

## 20. INDEMNIFICATION

### 20.1 Hold harmless in favor of the GOVERNMENT

- A. CONTRACTOR agrees to save and hold harmless the GOVERNMENT, its officers, agents, representatives, successors and assigns and other governmental agencies from any and all third party suits or actions of every nature and kind (collectively, "Claims"), which may be brought for or on account of any personal injury, death, or real or tangible personal property damage arising or growing out of the gross negligence or willful misconduct of CONTRACTOR, its officers, agents, servants or employees under this Contract.
- B. The GOVERNMENT shall give CONTRACTOR prompt and reasonable written notice within seven (7) days of any Claims; and CONTRACTOR shall have the right to investigate, defend, compromise and settle the same.
- C. In no event shall this agreement to indemnify apply to the extent any Claims are caused by the negligent acts or omissions of the GOVERNMENT or any third party.

## 20.2 Injury or damages caused by employees or agents of CONTRACTOR

CONTRACTOR shall indemnify and exonerate GOVERNMENT for all sums which are legally payable as compensation with respect to accidental loss or damage to GOVERNMENT'S tangible personal property resulting from negligent or intentionally wrongful actions or omissions of employees or agents of CONTRACTOR while on GOVERNMENT'S premises to the extent such actions or omissions were not caused by GOVERNMENT or any third party. As used above, the term "tangible personal property" shall not include software, documentation, data or data files. CONTRACTOR'S liability shall not apply to damages incurred from use of any software.

## 21. OTHER CONTRACTS

CONTRACTOR certifies that currently it has no other service contracts comparable to this Contract with any other government entities in the United States Virgin Islands

## 22. PECUNIARY INTEREST

Contract No. 4211800311

Initials: JS

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

Both parties declare that to the best of their knowledge no official or employee of the Department or any member of their family has pecuniary interest, direct or indirect, in this Contract.

### 23. CONFLICT OF INTEREST.

- A. The CONTRACTOR acknowledges that in executing its professional services pursuant to this Contract, it has the obligation of complete loyalty towards the Department, which includes having no interests that are adverse to the Department. Adverse interests include representing clients that have or may have interests contrary to the Department's. This duty also includes the continuous obligation to disclose to the Department all circumstances concerning its relationships with- clients and third parties, and any interests that could influence the agency when executing this Contract or while it is in effect.
- B. The CONTRACTOR represents conflicting interest when, on behalf of a client, it must support that which it is its duty to oppose to comply with its obligations with another former, present or potential client. Also, it represents conflicting interests when its conduct is described as such in the standards of ethics applicable to its profession, or according to the laws and regulations of the United States Virgin Islands. The conduct herein described by one of the CONTRACTOR'S directors, authorized representatives, managers, or employees shall constitute a violation of this prohibition. The CONTRACTOR shall avoid even the appearance of the existence of conflicting interests. The CONTRACTOR acknowledges the authority of the Attorney General to investigate and supervise compliance with the prohibitions contained herein. If the Attorney General believes that conflicting interests exist or have arisen, he will inform his findings to the CONTRACTOR in writing and his intention to terminate this Contract within a **THIRTY** (30) day term. Within such term, the **CONTRACTOR** can request to meet with the Attorney General to present its arguments regarding the determination of the existence of a conflict of interest. Said meeting *will* be granted in every case. If the meeting is not requested within the above mentioned term, or if the controversy *is* not satisfactorily resolved during the meeting, this Contract will be terminated.
- C. The **CONTRACTOR** certifies that it does not have and will not have any direct or indirect interest that may cause any conflict with the performance of the services herein contracted. The **CONTRACTOR** certifies that there is no conflict or incompatibility between the obligations under this Contract and the obligations under the **CONTRACTOR'S** agreements with private corporations and/or other government agencies. It publicly acknowledges its responsibility to refuse any professional or particular interest in any matter incompatible with this Contract or that may cause a conflict of interest between the **CONTRACTOR** and the Department.

D. **CONTRACTOR** further covenants that neither it nor its subcontractor is either:

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

1. a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the **GOVERNMENT** or any agency, board, commission or independent instrumentality of the **GOVERNMENT**, whether compensated on a salary, fee or contractual basis); or
2. a territorial officer or employee and, as such, has:
  - a) familiarized itself with the provisions of Title 3, Chapter 37, Virgin Islands Code, pertaining to conflicts of interests, including the penalties provision set forth in Section 1108 thereof;
  - b) not made, negotiated or influenced this Contract, in (its) official capacity;
  - c) no financial interest *in* this Contract as that, term is defined in Section 1101, (1) of said Code Chapter.

### 24. NEGLIGENCE OR ABANDONMENT OF DUTIES

The negligent discharge or abandonment of the duties assigned to the **CONTRACTOR** or the breach of the confidentiality clause herein below, shall constitute a breach of this Contract by the **CONTRACTOR** that shall entitle the Department to terminate this Contract after providing written notice and a thirty (30) day opportunity to cure as set forth above and without limitation of any other rights and remedies under law. Such termination shall release and discharge the Department from any further obligations or liabilities under this Contract, except as otherwise set forth in this Section 24. The Department is obligated to pay to the **CONTRACTOR** all services rendered and expenses incurred prior to such termination. It is further understood and agreed by each party that money damages may not be a sufficient remedy for any breach of this Contract. The other party may, to the extent permitted by law, be entitled to specific performance and injunctive or other equitable relief as remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for one party's breach of this Contract, but shall be in addition to all other remedies that may be available at law or equity.

In no event shall either party be liable to the other party for third party damages other than as expressly set forth above, including lost profits or savings; or loss of or damage to, records or data, even if the other party is informed of this possibility.

#### 24.1 Contractor Liability

- A. Contractor's liability to the Government under or relating to this Contract shall be limited to actual damages and shall in no event exceed two (2X) times the total compensation and payments due to Contractor under this Contract for the specific calendar year in which the services or deliverables directly causing the damages were provided, and in no

Contract No. PC-11800J11

Initials: JB

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

event shall Contractor be liable to the Government for any indirect, special, incidental, exemplary or consequential damages (including, without limitation, lost profits or good will) related to this Contract.

- B. The limitation of liability provided for in subsection (a) of this Section 24.1 shall not apply in the event of gross negligence, reckless conduct, or willful misconduct on the part of Contractor.

### 25. CONTRACT TERMINATION

#### 25.1 Causes

- A. This Contract may be terminated by mutual written agreement of **GOVERNMENT** and **CONTRACTOR**.
- B. The **GOVERNMENT** may terminate this Contract whenever funding for the project, from whatever source, is withdrawn, reduced, or restricted. To the extent such funding is reduced or restricted the parties shall make such changes and adjustments to this Contract such that it may be continued on its basis consistent with the reduced funding and/or the restrictions thereto.
- C. The **GOVERNMENT** may terminate this Contract whenever it determines that **CONTRACTOR** has failed to substantially perform its duties and responsibilities under this Contract. **GOVERNMENT** shall give **CONTRACTOR** written notice of its intention to terminate this Contract pursuant to this Section, which notice shall specify the duties and responsibilities that **CONTRACTOR** has failed to perform. Thereupon **CONTRACTOR** shall have a term of thirty (30) days following receipt of said notice to cure such failure or failures or, in the alternative, to provide a Corrective Action Plan to reach such objective. The **GOVERNMENT** must approve this plan. If **CONTRACTOR** successfully cures such failure or failures to conform with the specifications set forth in

### 26. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the **GOVERNMENT** in part, whenever the **GOVERNMENT** shall deem such termination advisable with sixty (60) days notice. This partial termination shall be effected by delivering to the **CONTRACTOR** a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The **CONTRACTOR** shall be entitled: to receive payments for services performed up to the date of partial termination under the same terms and conditions as for full termination.

### 27. PROCEDURES FOR TERMINATION

#### 27.1.1 Notice of termination

Contract No. 2011800711

Initials: JK

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

Notice of Termination by **GOVERNMENT** shall be given by certified mail with return receipt requested, addressed to **CONTRACTOR** as provided in Section 29 of this Contract, and shall specify with particularity the nature and date of the termination.

### 27.1.2 Consequence of notice

Upon receipt by **CONTRACTOR** of a Notice of Termination **CONTRACTOR** shall:

- A. Stop work under this Contract on the date and to the extent specified in the Notice of Termination, except that work is deemed necessary to terminate this Contract in an orderly basis shall continue as specified.
- B. Place no further orders or subcontracts for materials, services, or facilities.
- C. To the extent legally permissible or otherwise feasible, cancel all pending orders and terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- D. Assign to **GOVERNMENT** in the manner, and to the extent directed, all of the rights, titles, and interest of **CONTRACTOR** under the orders or subcontracts so canceled or terminated, in which case **CONTRACTOR** shall be held harmless for all orders or subcontracts canceled or terminated. Termination of this Contract and/or any Ordering Document or subcontract shall not relieve **GOVERNMENT** of its obligation to pay all charges that accrued prior to such termination. With the approval of **GOVERNMENT**, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which is reimbursable to **CONTRACTOR**, in whole or in part, in accordance with the provisions of this Contract. Within TEN (10) workdays after the effective date of termination, the **CONTRACTOR** shall transfer title to the **GOVERNMENT** (to the extent that title has not already been transferred) and deliver and return to the **GOVERNMENT**, any formal correspondence, reports, forms, or documents that have been provided by the **GOVERNMENT** related to the services described in this Contract to the extent possible.
- E. Complete the performance of such part of the work that has been specified for completion by the Notice of Termination. However, **CONTRACTOR** shall not be obligated, without its express consent, to complete the performance of any part of the work contemplated under this Contract or to continue performing on such parts of the work as **GOVERNMENT** may specify following the effective date of termination.
- F. Take such action as may be reasonably necessary, as **GOVERNMENT** may direct, for the protection and preservation of the property related to this Contract which is in the possession of **CONTRACTOR** and in which **GOVERNMENT** has or may acquire an interest.

Contract No. 201801511

Initials: CE

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

### 27.1.3 Performance of termination of obligations

- A. **CONTRACTOR** shall proceed immediately with the performance of the obligations set forth in Section 27.1.2 above, notwithstanding any delay in determining or adjusting the amount of any item of reimbursement under Section 27.2.2 below.
- B. Termination of this Contract shall not limit either party from pursuing any other remedies available to it, including injunctive relief, nor shall termination relieve **GOVERNMENT** of its obligation to pay all charges that accrued prior to such termination.

### 27.1.4 Return of property

Upon termination of this Contract in full, the **GOVERNMENT** shall require **CONTRACTOR** to return to the **GOVERNMENT** any property made available for its use during the term of this Contract.

## 27.2 Termination claims

### 27.2.1 Submission of claims

After receipt of a Notice of Termination, **CONTRACTOR** shall submit any claims for reimbursement related to the termination in the form and with the certifications prescribed by the **GOVERNMENT**. Such claims shall be submitted promptly, but in no event later than **THREE (3)** months after the effective date of termination, unless one or more extensions in writing are granted within such three-month period or authorized extension thereof. Within thirty (30) days of forwarding the Notice of Termination, the **GOVERNMENT** shall provide the forms and certifications prescribed for filing claims related to the termination as part of the termination notice. However, if the **GOVERNMENT** determines that the facts justify such action, termination claims may be accepted and acted upon at any time after such three-four month period or any extension thereof.

### 27.2.2 Reimbursement for uncompleted work

If this Contract is terminated or not renewed during any phase, **CONTRACTOR** shall be entitled to be paid an amount equal to the sum of direct labor, materials, and overhead costs incurred for work performed in conformance with the specifications in Addendum 1 approved by the **GOVERNMENT**, but not more than the amount which would have been paid had the subject services been completed and approved prior to termination. **CONTRACTOR** shall not be entitled to be paid for any work performed following receipt of notice of termination, unless such work was previously authorized in writing.

### 27.2.3 Failure to agree

In the event of a failure to agree in whole or in part as to the amounts to be paid to

Contract No. 201800311

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

CONTRACTOR in connection with the total or partial termination of work pursuant to this Section, the GOVERNMENT shall determine on the basis of information available the amount, if any, due to CONTRACTOR by reason of termination and shall pay to CONTRACTOR the amount so determined. CONTRACTOR shall have the right to contest any such determination, as set forth in this Contract in Section 31.

### 27.2.4 Failure to submit termination claims

Upon failure of CONTRACTOR to submit its termination claim within the time allowed, the GOVERNMENT may determine on the basis of information available the amount, if any, due to CONTRACTOR by reason of the termination and shall pay to CONTRACTOR the amount so determined. CONTRACTOR shall have the right to contest any such determination as set forth in this Contract in Section 31.

### 27.2.5 Anticipatory profits not reimbursable

In no case shall CONTRACTOR'S termination claims include any claim for unrealized anticipatory profits.

## 28. FORCE MAJEURE

CONTRACTOR and/or the GOVERNMENT shall be excused from performance under this Contract for any period that CONTRACTOR or the GOVERNMENT is prevented from performing my services in whole or in part as a result of acts of God, actions or inactions of the GOVERNMENT, floods, epidemics, fire, quarantine restrictions, strikes, freight embargoes, unusually severe weather, provided that CONTRACTOR or the GOVERNMENT have prudently and promptly acted to take any and all preventive and/or corrective steps that are within CONTRACTOR's or the GOVERNMENT's control to ensure that CONTRACTOR or the GOVERNMENT can promptly perform. Such non-performance (collectively, a Force Majeure Event) shall not be deemed breach of this Contract. This clause shall not relieve the CONTRACTOR of responsibility for developing and implementing all reasonably prudent contingency and disaster recovery measures. Subcontractor interruptions shall not be considered a Force Majeure Event unless agreed upon by both parties.

The party delayed by a Force Majeure Event shall immediately notify the other party by telephone (to be confirmed in writing within FIVE (5) days of the inception of such delay) of the occurrence of any Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event, all preventive and corrective steps taken how it affects performance, and the anticipated duration of the inability to perform.

## 29. NOTICES

Any notices required or permissible under this Contract shall be sufficient if given in writing and sent by certified mail, with return receipt requested, or personally delivered,

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

addressed to the parties as follows (or to such other address as the parties may subsequently specify in writing):

GOVERNMENT: Government of the Virgin Islands  
Claude E. Walker, Esq., Attorney General  
Department of Justice  
48B-40C Kronprindsens Gade, 2<sup>nd</sup> Floor  
St. Thomas, V. I. 00802  
340-774-5666; 340-774-3248 (fax)

Charlotte Poole Davis, Executive Director  
Paternity & Child Support Division  
8000 Nisky Center, Suite 500, 2<sup>nd</sup> Fl.  
St. Thomas, V. I. 00802  
340-775-3070 ext 5000  
340-775-3248

Christian Forurp, MIS Manager  
Paternity & Child Support Division  
8000 Nisky Center, Suite 500 2<sup>nd</sup> Fl.  
St. Thomas, V. I. 00802  
340-775-3070 ext.4066  
340-779-3800 (fax)

cc: Commissioner Dept. of Property  
& Procurement  
1 Sub Base  
St. Thomas, V. I. 00802  
340-774-9828  
340-774-9704 (fax)

### CONTRACTOR:

#### 30. PUBLICITY

**CONTRACTOR** shall secure the GOVERNMENT'S written approval prior to the release of any information, including press releases, interviews, bulletins, or articles of any kind in any

Contract No. \_\_\_\_\_  
RFP No. \_\_\_\_\_

Initials: \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

public, private, or trade medium concerning this Contract or project, its terms, execution, implementation; or results, which approval shall not be unreasonably withheld.

### 31. DISPUTES

#### 31.1 Notice and resolution mechanisms

In the event of any dispute arising during the term of this Contract concerning performance under this Contract or the rights of one or another of the parties, either party shall serve notice thereof to the other party.

##### 31.1.1 Content of notice

Said notice shall express clearly and completely the position of the noticing party.

##### 31.1.2 Reply to notice

Within TEN (10) workdays of service of such notice, the receiving party shall reply in writing to the noticing party. Said reply shall express clearly and completely the position of the receiving party in respect to each grievance set forth by the noticing party.

##### 31.1.3 Meeting between project directors

Within TEN (10) workdays after the reply has been served on the noticing party, representatives of the **CONTRACTOR** and the **GOVERNMENT** shall meet and make a good faith effort to resolve the dispute. If they succeed, they shall set forth their determination in writing, duly signed by them, and such document shall become binding upon the parties and an official record to be appended to this Contract. If they fail to reach agreement, they shall set forth a joint statement of the controversy in writing signed by each, which statement shall be submitted to the Attorney General, the Director of the Paternity and Child Support Division ("PCSD"), and the representative of the **CONTRACTOR** within TWO (2) workdays.

##### 31.1.4 High level meeting

If the parties fail to reach an agreement, the PCSD Director and the representative of **CONTRACTOR** shall meet as promptly as possible with a third person to be agreed upon by said parties and make a good faith effort to settle or otherwise compromise their differences. Other persons may attend such meeting only upon the express agreement of the three named individuals.

##### 31.1.5 Resolution of dispute

If the meeting specified in Section 31.1.4 above does not produce a settlement or compromise of the dispute or disagreement within SEVEN (7) workdays, the parties may pursue whatever legal remedies are available to them.

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

### 31.2 No interruption of work

Pending final determination of any dispute hereunder, **CONTRACTOR** shall proceed diligently with the performance of its services and be compensated for those services rendered which are not in controversy until a decision is made pursuant to this Section or this Contract is terminated.

## 32. CONTRACT AMENDMENTS

### 32.1 Definition of Contract Amendment

An approved Contract Amendment is defined as a written amendment to this Contract approved by the **GOVERNMENT** and the **CONTRACTOR** specifying the effective date of such change.

### 32.2 When required

i. A Contract Amendment is required whenever a change affects the terms and conditions, payment provisions, scope of work, or the term of this Contract. No waiver, modification or amendment of any term, condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

ii. It is understood that minor schedule changes do not require Contract Amendments. Changes to Task Orders that do not affect the terms and conditions of this Contract shall not require a contract amendment. Such changes may be accomplished by the issuance of a revised Task Order.

### 32.3 Changes to cost or time

The **GOVERNMENT** will use Contract Amendments to reduce or increase costs caused through changes in the scope of work. If any such change affects costs or the time required to perform other parts of this Contract, an equitable adjustment as mutually determined by the **GOVERNMENT** and **CONTRACTOR** will be made in the payment provisions or delivery schedule or both. This equitable adjustment shall be based on the rate table as established in Addendum IV. Failure to agree to an equitable adjustment is considered a dispute under the provisions of this Contract.

### 32.4 Change of Scope Request

The parties' agree that any change in services must be in writing in the form of a Change of

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

# PROFESSIONAL SERVICES CONTRACT

Scope Request. Any change in the specified Scope of Services must be mutually agreed upon by the parties. **CONTRACTOR** consent should be obtained if any change in **GOVERNMENT** requirements, software or hardware will affect **CONTRACTOR'S** estimates. **CONTRACTOR** shall not be obligated to perform tasks described in **GOVERNMENT'S** request until the parties agree in writing to the proposed change.

### 32.5 Negotiation

The Change of Scope Request shall be the basis for negotiation between the **GOVERNMENT** and **CONTRACTOR**. The **GOVERNMENT** and **CONTRACTOR** will negotiate contract Amendments in good faith. Upon agreement by the parties a Negotiation Memorandum shall be prepared by the **GOVERNMENT** documenting the scope of the change, the negotiated final fixed price, and the corresponding deliverables-based payment schedule. This Negotiation Memorandum shall be included as an exhibit to the resulting Contract Amendment.

### 33. CHANGE IN LAW

Any changes, during the term of this Contract, in Federal or Virgin Islands law that materially impact the services to be provided under this Contract or the cost of said services, shall be addressed by an amendment to this Contract that equitably amends the provisions of this Contract, including compensation, if necessary, in light of such change of law.

### 34. ACCOUNTING SYSTEM

**CONTRACTOR** shall maintain an accounting system that meets generally accepted accounting principles for purposes of audit and examination of any books, documents, papers, and records in support of or in connection with this Contract. All costs under this Contract will be fully accounted for separately and independently from any other costs of **CONTRACTOR**, who will be required to establish separate ledgers and accounts for this Contract so that costs can be clearly identifiable. There shall be no loans to employees or others with **GOVERNMENT** funds. Furthermore, there shall be no commingling of funds received under this Contract.

### 35. RETENTION OF RECORDS AND ACCESS BY GOVERNMENT AGENCIES

**CONTRACTOR**, including its subcontractors, shall maintain *all* books, documents, papers, accounting records and other evidence pertaining to costs incurred and make such materials available at their respective offices at all reasonable *times*, for inspection by authorized officials of the United States Virgin Islands, and concerned Federal agencies. Each subcontract shall include a provision containing the conditions of this Section. This documentation shall be preserved for either a period of FIVE (5) years from the date of termination of this Contract, or until any audit conducted by the Federal or Territorial government is completed, whichever condition occurs first.

Contract No. 20180511

Initials: *JS*

RFP No. \_\_\_\_\_



# PROFESSIONAL SERVICES CONTRACT

In this regard, the documentation resulting from this project will be reviewed by the **GOVERNMENT** and these agencies, and **CONTRACTOR** will be required to make any corrections required by these agencies as a result of their evaluations, subject to the terms of this Contract. The **GOVERNMENT** will give **CONTRACTOR** reasonable notice of at least **FIVE (5)** workdays for any inspection of documentation as set forth herein.

### 36. OWNERSHIP OF DOCUMENTS AND INFORMATION

- A. The **GOVERNMENT** shall have unlimited rights to use, disclose, duplicate, and/or publish for any purpose *all* information and data developed, derived, documented and delivered by the **CONTRACTOR** under this Contract, and shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, *all* operational and application software developed and delivered under this Contract, subject to existing copyrights of the **CONTRACTOR** and to the terms and conditions of Section 37 below.
- B. All technical communications and records originated or prepared by **CONTRACTOR** pursuant to this Contract intended as the expression of **CONTRACTOR'S** findings, analyses, conclusions, opinions and recommendations with respect to the subject matter of this Contract, including papers, reports, charts and other documentation, application software developed and/or transferred in this project, including modifications, enhancements and/or alternatives, but not including **CONTRACTOR'S** administrative communications, records files and working papers relating to this Contract (all of the foregoing, collectively, the "Work Product") shall be the sole and exclusive property of the **GOVERNMENT**, free of any claim or retention of rights by the **CONTRACTOR**.
- C. Any additional or advanced operations software concepts and/or technologies that may be developed during the term of this Contract and incorporated into the **CONTRACTOR'S** licensed products *shall* be and *shall* remain the exclusive property of the **CONTRACTOR**. However, the **CONTRACTOR** shall provide such additional or advanced concepts and/or technologies at no additional cost and with no restrictions other than those contained in Section 37 below.
- D. The **GOVERNMENT** retains all ownership or licensed rights to the system as modified and enhanced under this system maintenance and support **CONTRACT**, including but not limited to, ownership and licenses for any and all application software of the project, operational codes, and plans. The **CONTRACTOR** shall make available to the **GOVERNMENT** at any time the most current versions of all program source code, data dictionary and all relevant documentation on computer readable media, and shall provide interim copies upon request of **GOVERNMENT**. Concurrent with the final delivery of the software, the **CONTRACTOR** shall provide the **GOVERNMENT** with at least ONE (1) copy of the source code, in computer readable media, for each application program modified and/or enhanced under this **CONTRACT**. If the **CONTRACTOR**

Contract No. P4000001

Initials:   

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

uses or purchases any software or structured methodology product as part of this and/or for use in this project, e.g., to develop, document, modify, test, compile or otherwise assist in the project, the software product becomes the property of the **GOVERNMENT** at the completion of the project without cost.

- E. The **GOVERNMENT** retains all ownership rights and warranties to all computer hardware and/or equipment purchased and installed by the **CONTRACTOR** on behalf of the **GOVERNMENT** for the operation or maintenance of the software of this project.
- F. Excepted from the provisions of this Section are all programs and documentation which is licensed material acquired by **CONTRACTOR** and/or its subcontractors in connection with this Contract.
- G. Notwithstanding anything to the contrary herein, Contractor shall have the right to use and employ its general skills, knowledge, and expertise, and to use, disclose and employ any generalized ideas, concepts, knowledge, methods, techniques, or skills gained or learned during the course of performing the Services hereunder

### 37. SOFTWARE LICENSES

A. In the event **CONTRACTOR** is required, in the services to be provided hereunder, to modify or use any third party software licensed to and provided by the **GOVERNMENT**, the **GOVERNMENT** represents and warrants that it has acquired the necessary approvals and license rights for such modification or use by **CONTRACTOR**.

B. The **CONTRACTOR** shall grant to the **GOVERNMENT** a non-transferable and non-exclusive license(s) to use product(s) owned by the **CONTRACTOR**, as required by Addendum 1, and shall provide technical services for the product(s), during the term of this Contract, within the compensation provided for this Contract, and in accordance with the following terms and conditions:

1. The product(s) shall be used solely in the conduct of the **GOVERNMENT'S** business, and on and for the hardware and central processing units) (CPUs) installed for the uses, and at the locations, specified for this project.
2. Use of the aforementioned product(s) upon other or upgraded CPU(s), by other parties, or at other locations, requires an additional license and fee(s). The **GOVERNMENT** shall notify the **CONTRACTOR** at least THIRTY (30) days prior to any such proposed change external distribution or to process data on behalf of others, without mutual agreement between **GOVERNMENT** and **CONTRACTOR**.

4. The **GOVERNMENT** acquires *only* the right to use the product(s) during the term

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

of this Contract and does not acquire the rights of ownership of the product(s). The **CONTRACTOR** retains title and intellectual property rights (including, without limitation, patent, trademark, copyright, and trade secrets regarding the: product(s) and related user manuals and all copies, enhancements and reproductions thereof.

5. The **GOVERNMENT** may move the product(s) to another location only upon prior written approval of the **CONTRACTOR**, which shall not be unreasonably withheld. If the designated CPU(s) becomes *temporarily* inoperative, the license may be extended to another CPU(s) for a period agreed to by both parties.
6. The **GOVERNMENT** may not assign, sublicense, sell, encumber, or otherwise attempt to transfer this license(s) to any other entity, unless approved in writing by the **CONTRACTOR**.
7. The **CONTRACTOR** shall provide the **GOVERNMENT** with the product(s) on magnetic media along with associated paper documentation, and shall install the product(s) at the **GOVERNMENT'S** location(s) in accordance with the- proposal
8. The **CONTRACTOR** shall provide, during the term of this Agreement, the following technical services;
  - a) New Release - a consolidation of maintenance releases or enhancements to the functionality inherent in the existing product(s); and
  - b) System Update - subsequent modifications of the product(s) to operate under new releases of the computer manufacturer's operating system as identified in Addendum 1; and
  - c) System - Modifications - periodic consolidations of fixes to known errors of the product(s); and
  - d) Documentation - updates of the product(s) documentation.
1. In addition, the **CONTRACTOR** agrees to make reasonable efforts to correct any product system errors arising in a current version of the product(s).
2. At the conclusion of this Contract, the above license(s) and services may be extended and/or amended upon *mutual* agreement of both parties.

### 38a RIGHTS IN DATA, DOCUMENTS AND OTHER

During the term of this Contract, as a result of Contractor's efforts under this Contract, Contractor may generate ideas, inventions, suggestions, copyrightable materials or other information ("Intellectual Property") which fall into one of two categories:

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

### 38b COPYRIGHTS

CONTRACTOR warrants that all products designed and delivered by CONTRACTOR hereunder do not infringe upon or violate any patent, copyright, trade secret, or other proprietary right of a third party. In the event of a claim by a third party against the GOVERNMENT, the GOVERNMENT shall promptly notify CONTRACTOR *with* copies of all documents and papers served upon the GOVERNMENT, and CONTRACTOR shall defend such claim in the name of the GOVERNMENT, but at CONTRACTOR's expense, and shall indemnify and hold harmless the GOVERNMENT against any loss, expense, or liability arising out of such claim, whether or not such claim is successful.

In the event that any order of a court of competent jurisdiction shall prevent the GOVERNMENT from using all or any part of such product(s), CONTRACTOR at CONTRACTOR'S sole option, shall either (a) obtain for the GOVERNMENT, at CONTRACTOR'S expense, the right for the GOVERNMENT to continue using all of such product(s), including the alleged infringing portion, or (b) replace such infringing portion of such product(s) to make it non-infringing.

Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the Government for, or to pay any costs, damages or attorneys' fees related to, any infringement claim based upon: (i) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the Government; or (ii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

### 39. CONFIDENTIALITY

- A. All material and information concerning the GOVERNMENT provided to the CONTRACTOR by the GOVERNMENT or acquired by the CONTRACTOR in performance of this Contract, whether oral, written, recorded magnetic media, or otherwise, which is not known by third parties not involved in the project and which is not readily accessible to such third parties, shall be regarded as confidential information, and all necessary steps shall be taken by the CONTRACTOR to safeguard the confidentiality of such material or information in conformity with Federal and Virgin Islands statutes and regulations.
- B. The CONTRACTOR agrees not to release any such information provided by the GOVERNMENT or any generated by the CONTRACTOR without the express written consent of the GOVERNMENT. Such consent will be given only for purposes that will enable the CONTRACTOR to discharge its responsibilities hereunder.
- C. The provisions of this Contract shall not apply to information that (i) is lawfully in the

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



# PROFESSIONAL SERVICES CONTRACT

public domain at the time it was transmitted; (ii) has been independently developed by the CONTRACTOR without violation of this section; (iii) is independently known to the CONTRACTOR at the time of receipt through no unlawful act of the CONTRACTOR; (iv) is disclosed by the CONTRACTOR with written approval of the GOVERNMENT; (v) becomes known to the CONTRACTOR from a source other than the GOVERNMENT, which source legally is entitled to have and to disclose such information without restriction or (vi) is required to be disclosed by law.

- D. The **GOVERNMENT** prohibits disclosure of participant or employee records by the **CONTRACTOR**.

### E. SECURITY BREACH

A breach of Personally Identifiable Information (PII) shall have occurred when there has been unauthorized acquisition of unencrypted PII data (electronic or otherwise) from Contractor's possession which is utilized in the performance of this Contract that compromises the security, confidentiality, or integrity of PII. The Contractor agrees to be liable for any unauthorized disclosure of PII in its possession as if it was the owner of the data. The Contractor acknowledges that any breach of PII is a material breach of this Contract. The Contractor shall notify the Government immediately of any breach or suspected breach but in no event later than twenty-four hours after the Contractor learns of the suspected breach. The Government may establish reasonable required remediation procedures and the Contractor shall comply without limitation as directed by the Government unless prohibited by law. The Contractor shall bear all reasonable costs of such remediation.

#### F. DUTY TO SAFEGUARD INFORMATION

- i. The Contractor shall comply with Code of Federal Regulations, Title 45, Part 307.13. The Contractor acknowledges that its automated systems may access or utilize child support program data and that its automated systems are considered a component of the Government's computerized support enforcement systems for purposes of complying with the safeguard provisions set forth in Federal regulation 45 CFR 307.13. Additionally, the Contractor agrees that the data supplied by the Paternity and Child Support Division shall be used for official Government business only. Confidentiality of data must be maintained. Contractor acknowledges and agrees that violation of confidentiality may result in a fine.
- ii. The Contractor acknowledges that in the course of exercising its duties under this Contract that it will receive highly sensitive "personal identifying information"

Contract No. \_\_\_\_\_

Initials: *FE*

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

- (PII). The Contractor shall not allow this information to be disclosed except to individuals who are authorized in order to perform their duties and only for the duration of time necessary to complete such duties. The Contractor shall employ technologies and methods reasonably selected from all available technologies and abide by prevailing industry standard security practices for such security sensitive environments to secure this data and prevent its unauthorized disclosure. Such technologies and methods shall include, but shall not be limited to, employee criminal background investigation, computer access security, data access security, data storage encryption, and data transmission encryption. The Contractor takes full responsibility for the security of all data and hereby agrees to hold the Government harmless for any damages and liabilities that may result from unauthorized disclosure or loss of PII from the Contractor's possession to the extent caused by Contractor.
- iii. The work to be performed under this Contract may require the Government to supply data that contains PII. The Contractor agrees that the Government will securely deliver such data directly to the facility where the data is used to perform the work under this Contract. The data is not to be maintained or forwarded to or from any other facility or location except for the authorized and approved purposes of backup and disaster recovery purposes. The Contractor shall insure that the data is not retained beyond the life of the Contractor's relationship with the Government as established by this Contract. The Contractor agrees to dispose of the data in a secure manner as approved by the Government.
- iv. The Contractor agrees to inspect and audit the security of its organization that is used to deliver services under this Contract annually to insure compliance with the applicable Federal guidelines including IRS Publication 1075. The Contractor shall deliver a written report annually to the Government that describes how the Contractor meets the applicable guidelines in IRS Publication 1075. All applicable guidelines and reports will be mutually agreed upon by the Government and Contractor.
- v. With prior reasonable notice to the Contractor, the Government may at any time arrange for a security audit to be performed by itself or a third party during Contractor's regular business hours to assess the security of the Contractor's information technology infrastructure for compliance with these security requirements including computer systems, networks, security procedures, etc, the cost of which shall be borne by the Government.

Contract No. 60132511

Initials:   

RFP No.



## PROFESSIONAL SERVICES CONTRACT

### 40. ASSIGNMENT OF CONTRACT

**CONTRACTOR** may not subcontract or assign this Contract, in whole or in part without the prior written consent of the **GOVERNMENT**, which consent shall not be unreasonably denied. The use of personnel from **CONTRACTOR**'s subsidiaries is permitted and shall not be deemed an assignment.

### 41. OWNERSHIP MODIFICATION

In the event of any sale or takeover of a majority ownership in Contractor by a person or entity that did not have such ownership interest on the day before the effective date of this Contract, Contractor shall ensure that it or its successor organization continues to perform its duties under this Contract. Contractor must inform all parties interested in buying or taking majority control of its business of its obligation to continue performing under this Contract, and shall not agree to any sale or takeover of its business without assuring that this Contract will continue to be performed until the term has expired.

### 42. SEVERABLE PROVISIONS

If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid, then such provision is be deemed stricken from this Contract and this Contract shall be enforced according to *its* valid and subsisting terms and provisions.

### 42. DISCLAIMER

#### 42.1 Liability for statistical and fiscal information errors

All statistical and fiscal information contained in the **RFP** and any appendices or attachments to this Contract reflects the information available to the **GOVERNMENT** at the time of the preparation of the above-cited documents. The **GOVERNMENT** does not warrant the accuracy of any such information and is not liable for any errors or the results of errors that may be discovered, at any time, to exist in those statements.

#### 42.2 Due diligence responsibility of the **CONTRACTOR**

It is the sole responsibility of the **CONTRACTOR** to exercise due diligence in the performance of this Contract.

### 43. OMISSIONS

In the event that the **GOVERNMENT** or **CONTRACTOR** discovers any material omission in the provisions of this Contract that is believed to be essential to the successful performance of this Contract, each must so inform the other in writing. The **GOVERNMENT** and **CONTRACTOR** will promptly negotiate in good faith with respect to such matters for the purpose of making such reasonable adjustments as may be necessary to attain the objectives of

Contract No.                     

Initials:                     

RFP No.

## PROFESSIONAL SERVICES CONTRACT

this Contract.

### 44. SAVING CLAUSE

The GOVERNMENT and CONTRACTOR acknowledge the possibility that changes in Federal and Virgin Islands laws or regulations applicable to this Contract could occur and expressly agree to renegotiate this Contract as necessary to comply with such changes:

### 45. CONTRACTOR'S REPRESENTATIONS

The CONTRACTOR represents that it is in compliance with:

- A. U.S. Executive Order 11246, relating to Equal Opportunity Employment; and
- B. 18 US 874, the US. Copeland "Anti-Kickback Act; and
- C. Section 3.06 of the US. Clean Air Act; and
- D. Section 5D8 of the U.S. Clean Water Act; and
- E. The US. Immigration Reform Act; and
- F. The U.S. Anti-Lobbying Act.

The CONTRACTOR further represents that it is not, and has not been, debarred or suspended from doing business with any state, territorial, county or municipal governmental agency, or any federal agency, within the jurisdiction of the United States.

### 46. INSURANCE POLICIES

#### 46.1 Coverage and limits

CONTRACTOR has provided the Department evidence of the following insurance coverage:

#### A. Professional Liability (Errors and Omissions)

Covering all employees associated with the work to be carried out under this Contract with a limit of liability for \$1,000,000 per claim.

#### B. Workmen's Compensation Insurance

CONTRACTOR shall carry Workmen's Compensation Insurance for all employees engaged in work at the site in accordance with applicable laws and regulations.

#### C. Other Insurance

Contract No. PC-10051

Initials: JS

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

**CONTRACTOR** hereby agrees to maintain any other coverage required by law or by any applicable regulation.

### 47. PROFESSIONAL STANDARDS

**CONTRACTOR** agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States.

### 48. NONSOLICITATION OF CONSULTANTS AND EMPLOYEES

Without the prior written consent of either party, from the date of this Contract until one year after the termination of this Contract, neither party shall, either directly or indirectly, on behalf of themselves or any other individual, corporation, partnership or other entity, employ, solicit for employment or otherwise assist in the solicitation or employment, of any employee of either party.

### 49. CONTINGENT FEE PROHIBITION

**CONTRACTOR** warrants that it has not employed or retained any individual, corporation, partnership or other entity, other than a bona fide employee or agent working for **CONTRACTOR** to solicit or secure this Contract, and that it has not paid or agreed to pay any individual, corporation, partnership or other entity, other than a bona fide employee or agent any fee or other consideration contingent on the making of this Contract.

### 50. GOVERNING LAW

The Contract shall be governed by the laws of the United States Virgin Islands, unless there is a conflict between those laws and any Federal law, in which event Federal law shall prevail. Jurisdiction over this Contract shall remain within the United States Virgin Islands.

### 51. HEADINGS NOT CONTROLLING

Section headings in this Contract are for convenience only and shall have no binding force or effect and shall not enter into the interpretation of this Contract.

### 52. LICENSURE

The **CONTRACTOR** covenants that it has:

- a. obtained, and shall, during the term of this Contract, maintain, all of the applicable licenses or permits, temporary or otherwise, as required by Title 27 of the Virgin Islands Code; and
- b. familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

## PROFESSIONAL SERVICES CONTRACT

### 53. DEBARMENT CERTIFICATION

By execution of this Contract, the **CONTRACTOR** certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The **CONTRACTOR** shall include this provision in each of its sub-contracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NONPROCUREMENT" In the event the contractor or sub-contractor misrepresents its eligibility to receive contract awards using federal fund, the **CONTRACTOR** or sub-contractor agrees that it shall not be entitled to payment for any work performed under this Contract Of sub-contract and that the **CONTRACTOR** or sub-contractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. If, during the term of this Contract, the Contractor shall become ineligible to receive contract awards using federal funds, this Contract shall be terminated forthwith for cause and the Contractor shall not be entitled to payment for any work performed under this Contract or sub-contract after the effective date of such ineligibility.

### 54. FALSE CLAIMS

**CONTRACTOR** warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such *claim* to be false, fictitious or fraudulent. **CONTRACTOR** acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

### 55. NOTICE OF FEDERAL FUNDING

**CONTRACTOR** acknowledges that this Contract is funded, in whole or in part, by federal funds. **CONTRACTOR** warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious or fraudulent. **CONTRACTOR** acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

### 56. MISCELLANEOUS

Unless otherwise specified, all references in this Contract to "days" refer to calendar days.

### 57. NON-DISCLOSURE OF FEDERAL TAX INFORMATION

The Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the requirements set forth in **ADDENDUM 11P** CONCERNING THE NON-DISCLOSURE OF FEDERAL TAX INFORMATION. The Contractor agrees that it has read the terms of **ADDENDUM 11P** and will be solely responsible for any violations of the provisions and subject to the civil and criminal penalties described therein.

### 58. CONDITION PRECEDENT

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_



## PROFESSIONAL SERVICES CONTRACT

1. Intellectual Property created specifically in connection with the subject matter of Contractor's efforts under this Contract, and directly incorporated into, the work product to be produced or utilized to provide services by Contractor and delivered to the Government under this Contract. Title to Intellectual Property described in this paragraph, that is developed jointly by Contractor and the Government, or solely by Contractor and paid for by the Government, shall remain in the Government at all times. Contractor agrees to disclose and assign to the Government, in a form satisfactory to the Government, all such Intellectual Property, and to render such assistance as the Government may reasonably require to perfect such assignments and to protect such Intellectual Property. The parties understand and agree that any such property, if developed from federal funds, may be the property of the Federal Government. If such be the case, the Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for the Government's and for the Federal Government's purposes, any such intellectual property; and

2. Intellectual Property of general applicability, whether or not related to, or incorporated into, the work product to be produced or utilized to provide services by Contractor and delivered to the Government under this Contract. Title to Intellectual Property described in this paragraph, including any Intellectual Property developed by Contractor prior to or outside of this Contract, shall remain property of the Contractor. To the extent such Intellectual Property is incorporated into the work product to be produced and delivered to the Government under this Contract, Contractor grants and the Government hereby accepts, a worldwide, royalty-free, non-exclusive license to use all such Intellectual Property as incorporated into the Contractor work product until such time as Government no longer needs or uses such Intellectual Property.

3. The Government will be the owner of the license provided by the Contractor on all third party proprietary operating and CONTRACTOR software package(s), which are provided to the Government hereunder.

4. The Contractor may propose software of its own or that of a third party to utilize in the delivery of services under this Contract. However, the Government retains the right to accept or decline such proposal. Such proposal shall be made in writing to the Government and prior written approval must first be granted by the Government before such software may be used for the delivery of services under this Contract.

## PROFESSIONAL SERVICES CONTRACT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

Contract No. 17-00511

Initials:

RFP No.



**PROFESSIONAL SERVICES CONTRACT**

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

**WITNESSES:**

**GOVERNMENT OF THE VIRGIN ISLANDS**

\_\_\_\_\_

\_\_\_\_\_  
Claude E. Walker, Esq. Attorney General  
Department of Justice

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Randolph N. Bennett, Commissioner  
Department of Property & Procurement

Date: \_\_\_\_\_

**CONTRACTOR**

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
Kenneth E. Mapp  
GOVERNOR OF THE VIRGIN ISLANDS

Date: \_\_\_\_\_, 2016

**APPROVED TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE**

By \_\_\_\_\_  
Assistant Attorney General

Date: \_\_\_\_\_, 2016

Account Code #  
Document No.

Miscellaneous Encumbrance

Contract No. \_\_\_\_\_

Initials: \_\_\_\_\_

RFP No. \_\_\_\_\_

*Territory of the Virgin Island Paternity & Child Support Division  
Request for Proposals (RFP)*

### **3.0 Statement of Work**

#### **3.1 Introduction**

This Statement of Work provides details of the services required by the Territory of the Virgin Islands to provide incremental upgrades of CSTARS system and programs including the financial programs, use of web based portals, automated processes for greater functionality, connectivity and interfacing with other agencies, local and federal, banking institutions, and child support partners; support and maintenance of the CSTARS system, including the upgrades. These requirements are based on the recommendations provided by ACF, the CSTARS Project Manager, PCSD's MIS staff and PCSD Management. CSTARS is fully certified as providing the functionality required by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA), the Balanced Budget Act of 1997 (BBA) and the Taxpayer Relief Act of 1997 and the Family Support Act of 1998. An overview of the existing CSTARS functionality is included as background information, along with a description of the current technical architecture of the CSTARS system (Appendices C)

#### **3.2 Overview of CSTARS functionality and architecture**

CSTARS is the automated case management system that supports the Title IV-D Child Support Program in the Virgin Islands. The CSTARS system has been operational since late 2001.

The CSTARS system allows child support case data to be entered and verified simultaneously and changes to that data are reflected online. CSTARS includes effective interfaces with the VI Bureau of Internal Revenue. The VI Department of Human Services, the VI Department of Labor, Cyber Fusion (thru the VI Dept of Human Services). The Federal Case Registry, local Financial Institutions, other state Child Support Enforcement agencies and some additional federal databases such as CSEnet. Each interface allows PCSD to both provide and receive information related to child support enforcement.

CSTARS includes document generation features to maximize communication with non-automated locate sources. In addition the document generation feature of the system produces both letters and formatted documents (forms) without significant manual intervention.

CSTARS uses a menu driven approach in which users may move through the menus sequentially or via manual selection. Security roles limit the screens available to individual users and determine the level of access (read-only, modify, no-access to specific areas of the database).

The Child Support Enforcement (CSE functional requirements that are currently supported by the CSTARS System fall into seven (7) major categories:

- Case Initiation;
- Location
- Establishment



- Case Management;
- Enforcement;
- Financial Management; and
- Reporting.

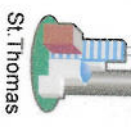
Data is available for use within each function and processes are coordinated, tracked and monitored through the system.

Figure 3-1 below displays the CSTARS' network architecture.

The distributed processing concept implemented in CSTARS is based on the following parameters:

- The CSTARS database is located on an IBM P6 (System P520) computer located in the PCSD Data Center in St. Thomas;
- The CSTARS application and forms database are located on a Windows 2003 file server located in the PCSD Data Centers in St. Thomas and St. Croix;
- Communications between the offices are conducted through a dedicated high-speed (T1) line.
- PC-resident application programs handle all user-interface activity and data entry off the host; and
- Actual communications between each office's host computers and the respective PC LANs are managed through gateways on the LAN, rather than by individual workstation link.

An appropriate combination of hardware and software was configured in order to support a three-second-response time for 80 percent of all user on-line transactions, and a five- (5) second maximum response time for all on-line transactions.

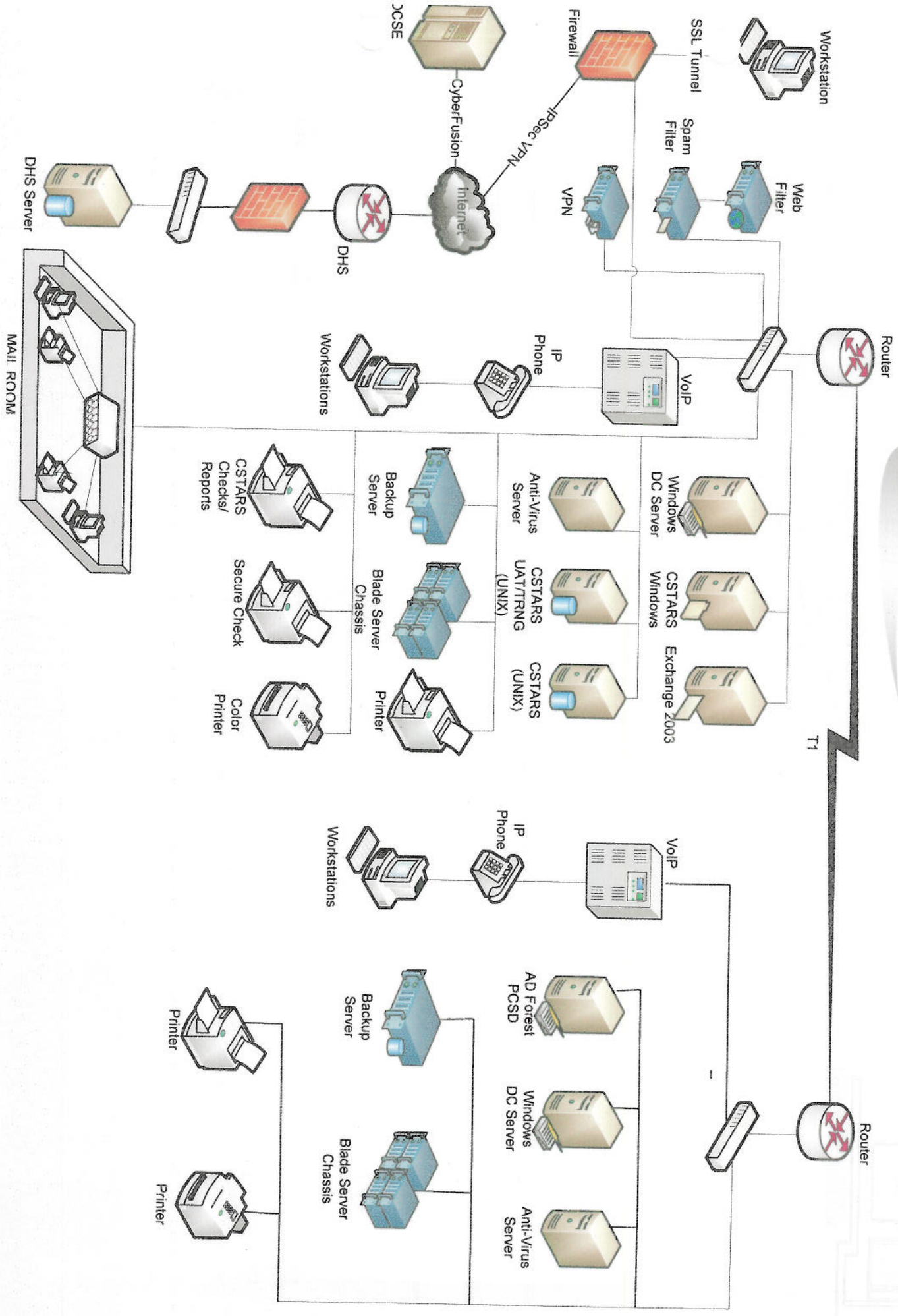
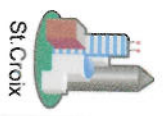


# Appendix C – Network Diagram

## DOJ Paternity & Child Support

### ACENET

July 6, 2012  
Version 1.3





## **APPENDIX D**

### **OPEN ISSUES (SPREADSHEET)**

**\* PLEASE REFER TO EMAIL SENT TO:  
[latisha.blyden@dpp.vi.gov](mailto:latisha.blyden@dpp.vi.gov) on 5/11/2016**

## Required Federal Provisions

The Implementation contractor must comply with the following provisions:

1. Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.
2. The Clean Air Act, Section 306:
  - a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.
  - b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
  - c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
  - d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
  - e. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]



## Required Federal Provisions

### 3. The Clean Water Act:

- a. No federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- b. The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of subsection (a) of this section.
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
  - (1) requiring each federal agency authorized to enter into contracts and each Federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
  - (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.
- f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
  - (3) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

## Required Federal Provisions

4. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan as required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:
  - a. No federal appropriated funds have been paid or will be paid , by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation , renewal, amendment, or modification of any federal grant or cooperative agreement;
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
  - c. The undersigned shall require that the language of this certification be include in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.
5. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by state and local governments, except public transportation services.
6. Drug Free Workplace Statement: The federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:
  - a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
  - b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.



## Required Federal Provisions

- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
  - d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Arkansas Department of Health WIC Program that abuse of this drug will also not be tolerated in the workplace.
  - e. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.
7. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.
- a. The applicant certifies that it and its principals:
    - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
    - (2) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
    - (4) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.
  - b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.
8. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership.

## Required Federal Provisions

9. Software Ownership Rights in accordance with 45 CFR part 95.617 and 45 CFR part
10. 310.25(c)
11. 95.621(f) APD System Security Requirements and Review Process.
12. Federal funding – contingent on state and federal funding.
13. Davis Bacon Act (labor rates) of 1931 is a United States federal law that establishes the requirement for paying the local prevailing wages on public works projects for laborers and mechanics.
14. Copeland "Anti-kickback" Act (Pub.L. 73-324, 48 Stat. 948, enacted June 13, 1934, codified at 18 U.S.C. § 874) is an act of Congress that supplemented the Davis-Bacon Act of 1931.
15. Americans with Disabilities Act - The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.  
To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.

### The FAR

The Federal Acquisition Regulations System is established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies. The Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR. The FAR System does not include internal agency guidance of the type described in 1.301(a)(2).

The Federal Acquisition Regulation (FAR) Subpart 39.2 Electronic and Information Technology implements Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Architectural and Transportation Barriers Compliance Board Electronic and Information Technology (EIT) Accessibility Standards (36 CFR Part 1194).



## **Required Federal Provisions**

16. Access to records in accordance with the following:

- 45 CFR part 75.329
- 45 CFR part 75.361
- 45 CFR part 310.40
- 45 CFR part 95.615

17. Record Retention rules/policies in accordance with 45 CFR part 75.361 and 45 CFR part 95.615

18. Confidentiality in accordance with 45 CFR part 308.80